

#### **45.770 Contingency account.**

- (1) There is created within the capital construction fund the capital construction and equipment purchase contingency account. The account shall consist of moneys appropriated to the account by the General Assembly.
- (2) Money in the capital construction and equipment purchase contingency account may be transferred to the allotment account of a capital construction project, authorized by the General Assembly under KRS 45.760, subject to the following conditions and procedures:
  - (a) Except as provided in paragraphs (b) and (c) of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency account to the allotment account of an authorized project shall not exceed an amount equal to fifteen percent (15%) of the estimated cost of the project, for that biennium, approved by the General Assembly in the manner provided by KRS 45.760.
  - (b) Subject to paragraph (c) of this subsection, if the cost of an authorized project exceeds, by more than fifteen percent (15%), its estimated cost, as approved by the General Assembly, due to an unforeseen decision by a federal or state court or regulatory agency, moneys in excess of fifteen percent (15%) of the estimated cost of the project may be transferred from the capital construction and equipment purchase contingency account to the allotment account of the project.
  - (c) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review as provided by KRS 45.800. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the commissioner of the Department for Facilities and Support Services, Finance and Administration Cabinet, that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.
- (3) Money in the capital construction and equipment purchase contingency account may be transferred to the allotment account of a major item of equipment, authorized by the General Assembly under KRS 45.760, for expenditure on that item subject to the following conditions and procedures:
  - (a) Except as provided in paragraphs (b) and (c) of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency account to the allotment account of an authorized major item of equipment shall not exceed an amount equal to fifteen percent (15%) of the estimated cost of the item, for that biennium, approved by the General Assembly in the manner provided by KRS 45.760.
  - (b) If the cost of an authorized major item of equipment exceeds, by more than fifteen percent (15%), its estimated cost, as approved by the General Assembly, due to an unforeseen decision by a federal or state court or

regulatory agency, moneys in excess of fifteen percent (15%) of the estimated cost may be transferred from the capital construction and equipment purchase contingency account to the allotment account of the item.

- (c) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review as provided by KRS 45.800. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the secretary of the Finance and Administration Cabinet that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.
- (4) Money in the capital construction and equipment purchase contingency account may be transferred to a capital project account to be used for nonrecurring moving expenses of state agencies to address issues of public health and safety or governmental efficiency, subject to the following conditions and procedures:
  - (a) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review as provided by KRS 45.800.
  - (b) Presentation of a proposed transfer shall include written certification to the committee from the secretary of the Finance and Administration Cabinet that the moving costs are nonrecurring, and describing the specific benefits, including but not limited to fiscal and efficiency savings associated with the proposal.
  - (c) No transfer shall be used for capital improvements.
- (5) No later than thirty (30) days after a project has been accepted by the Commonwealth of Kentucky and the contracts encumbered against that project have been closed, moneys constituting the available balance in the project or equipment account shall be transferred as follows:
  - (a) If the project was a line item in the budget and not funded with road funds, then the balance shall be transferred to the capital construction surplus account.
  - (b) If the project was a line item in the budget and funded with road funds, then the balance shall be transferred to the road fund surplus account.
  - (c) If the project was completed within the biennium in which it was authorized, and if the project was funded from a major maintenance pool, then the balance shall be transferred to that major maintenance pool.
  - (d) If the project was not completed within the biennium in which it was authorized, without being expressly reauthorized by a succeeding session of the General Assembly, then the balance shall be transferred to the capital construction surplus account.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 67, sec. 1, effective June 20, 2005. -- Amended 1992 Ky. Acts ch. 47, sec. 4, effective July 14, 1992. -- Amended 1984 Ky. Acts ch. 410, sec. 3, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 300, sec. 8, effective July 1, 1982; and ch. 393, sec. 31, effective July 15, 1982. -- Created 1979 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 3, effective January 1, 1980.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

**2006-2008 Budget Reference.** See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. V, G.6., at 1406; and State/Executive Branch Final Budget Memorandum, 2006 Ky. Acts ch. 257, at 1573 (Final Budget Memorandum, at 12).